

PX17

PX17 Attachment AM

Administrative citation from Utah Department of  
Commerce, Division of Consumer Protection



**Service of Process  
Transmittal**

02/24/2011

CT Log Number 518090742



**TO:** Blair McNea  
Convertis LLC  
6260 Lookout Road  
Boulder, CO 80301

**RE:** **Process Served in Colorado**

**FOR:** Convertis, LLC (Domestic State: CO)

**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

<b>TITLE OF ACTION:</b>	In the Matter of: Convertis, LLC, etc., et al., Respondents
<b>DOCUMENT(S) SERVED:</b>	Administrative Citation, Certificate of Service, Notice, Informal Hearings
<b>COURT/AGENCY:</b>	State of Utah, Department of Commerce, Division of Consumer Protection, UT Case # DCP Case 73780
<b>NATURE OF ACTION:</b>	Violation of Consumer Sales Practices Act 13-11-4 - Deceptive act or practice by supplier
<b>ON WHOM PROCESS WAS SERVED:</b>	The Corporation Company, Denver, CO
<b>DATE AND HOUR OF SERVICE:</b>	By Regular Mail on 02/24/2011 postmarked on 02/18/2011
<b>JURISDICTION SERVED :</b>	Colorado
<b>APPEARANCE OR ANSWER DUE:</b>	Within 10 days
<b>ATTORNEY(S) / SENDER(S):</b>	David P. Furlong - Investigator Utah Division of Consumer Protection 160 East 300 South Box 146704 Salt Lake City, UT 84114-6704 801-530-6601
<b>ACTION ITEMS:</b>	SOP Papers with Transmittal, via Fed Ex Standard Overnight , 796803936804 Email Notification, Angela Johnson <a href="mailto:ajj@bhgrlaw.com">ajj@bhgrlaw.com</a>
<b>SIGNED:</b>	The Corporation Company
<b>PER:</b>	Joyce Romero
<b>ADDRESS:</b>	1675 Broadway Suite 1200 Denver, CO 80202
<b>TELEPHONE:</b>	303-629-2500

Page 1 of 1 / OQ

Information displayed on this transmittal is for CT Corporation's record keeping purposes only and is provided to the recipient for quick reference. This information does not constitute a legal opinion as to the nature of action, the amount of damages, the answer date, or any information contained in the documents themselves. Recipient is responsible for interpreting said documents and for taking appropriate action. Signatures on certified mail receipts confirm receipt of package only, not contents.

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**BEFORE THE DIVISION OF CONSUMER PROTECTION  
OF THE DEPARTMENT OF COMMERCE  
OF THE STATE OF UTAH**

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IN THE MATTER OF:

**Convertis, LLC d/b/a  
OrthoWhite and  
IvoryWhite**

**DCP Case #73780**

Respondents

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**ADMINISTRATIVE CITATION**

\* \* \* \* \*

PURSUANT TO THE AUTHORITY granted by UTAH CODE ANNOTATED §13-2-6(3), as amended, which empowers the Division of Consumer Protection to issue a citation upon any person reasonably believed to be engaged in the violation of any statute listed in UTAH CODE ANNOTATED §13-2-1, as amended, it appears, upon information and belief, that you are in violation of the *Consumer Sales Practices Act*, UTAH CODE ANNOTATED §13-11-4 *et seq.* In particular, the Division of Consumer Protection alleges:

1. That on January 26, 2011, Kimberly Christensen was on Facebook when she clicked on a pop-up ad for a Risk Free trial offer for two teeth whitening products. Once Ms. Christensen clicked on the pop-up ad she was taken to the following website: <http://weekly-consumer-tips.com>. This website is a fake blog with a headline stating "Don't Break the Bank: A Mom's Trick to Whiter Teeth". This website is being used to drive internet traffic to two different teeth whitening product websites, one being OrthoWhite (OW) and the other being IvoryWhite (IW).
2. That at this time Ms. Christensen made an advertised "Risk Free" trial purchase from both the OW website and the IW website using her husband's credit card. The name on the credit card is Samuel Christensen. Ms. Christensen received the IW product during

the advertised trial period and cancelled during that time, therefore incurring no additional charges. Ms. Christensen did not receive the OW product until after the trial period had expired and so Mr. Christensen received an unauthorized credit card charge of \$68.41. Ms. Christensen called OW and mailed the product back, but did not receive a refund.

3. That on February 15, 2011, I noted numerous misrepresentations made on the fake blog including, but not limited to, "Don't Break the Bank: A Mom's Trick to Whiter Teeth", "NEWS ALERTS", "NEWS 6", "Online teeth whitening companies are DESPERATE for new customers and are giving away free trials as a way to find new clients and offload excess inventory", and "Amy, a Salt lake City school teacher and full time mother, is one such consumer". In addition, there were several fake blog postings on the website. There are at least six (6) Consumer Sales Practices Act violations on this website.
4. That on this date I ran a domain name registration records check on the OW website, which was privacy protected by Domains By Proxy (DBP). I sent an email to DBP to get the registrant information for the website. I received a reply from DBP that advised Convertis, LLC (CL) of Boulder, Colorado was listed as the registrant for the website. I also learned through my investigation that both OW and IW are teeth whitening products being sold by CL. Therefore, CL is receiving internet traffic to both their teeth whitening websites through this fake blog.

The above actions are in violation of the *Consumer Sales Practices Act*, UTAH CODE ANNOTATED §13-11-4, Deceptive act or practice by supplier.


(1) A deceptive act or practice by a supplier in connection with a consumer transaction violates this chapter whether it occurs before, during, or after the transaction.

(2) Without limiting the scope of Subsection (1), a supplier commits a deceptive act or practice if the supplier knowingly or intentionally:

(d) indicates that the subject of a consumer transaction is available to the consumer for a reason that does not exist;

**(6 Counts-Potential Fine \$15,000)**

THIS CITATION ISSUED this the 16<sup>th</sup> day of February 2011

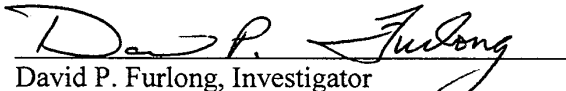
  
David P. Furlong, Investigator  
Utah Division of Consumer Protection

**CERTIFICATE OF SERVICE**

THIS IS TO CERTIFY that the undersigned duly mailed by regular mail and certified mail a true and exact copy of the above and foregoing Administrative Citation to the following:

CONVERTIS LLC  
6260 LOOKOUT RD  
BOULDER CO 80301

CONVERTIS LLC  
c/o THE CORPORATION COMPANY  
1675 BROADWAY STE 1200  
DENVER CO 80202

  
David P. Furlong, Investigator  
Utah Division of Consumer Protection

**IMPORTANT NOTICE - READ CAREFULLY**

This citation may be contested by filing a request for a hearing, in writing, within ten (10) days from receipt of this citation. Such hearing shall be conducted as an informal hearing under Title 63, Chapter 46b, of the Administrative Procedures Act. A citation which is not so contested becomes the final order of the Division and is not subject to further agency review. In addition to any fines which might be levied, a cease and desist order shall be entered against you. An intentional violation of a final cease and desist order is a third degree felony pursuant to Utah Code Annotated 13-2-6(2) as amended. If you desire a hearing on this citation you may mail your request to:

Traci Gundersen, Director  
Utah Division of Consumer Protection  
PO Box 146704  
Salt Lake City, UT 84114-6704

Please be advised that all inquiries, correspondence, or other contacts concerning this citation, with the exception of any written request for hearing as set out above, should be directed to the below named Division employee, designated by the Director of the Division of Consumer Protection pursuant to UTAH CODE ANNOTATED §13-2-6(3)(a)(iv) and §63-46b-3(2)(a)(i)(1953), as amended:

David P. Furlong, Investigator  
Utah Division of Consumer Protection  
160 East 300 South  
PO Box 146704  
Salt Lake City, UT 84114-6704  
Telephone: (801) 530-6601

DIVISION OF CONSUMER PROTECTION  
DEPARTMENT OF COMMERCE  
STATE OF UTAH  
160 EAST 300 SOUTH  
P.O. BOX 146704  
SALT LAKE CITY, UTAH 84114-6704

## INFORMAL HEARINGS BEFORE THE DIVISION OF CONSUMER PROTECTION

You may request an informal hearing to contest an administrative citation issued by the Division of Consumer Protection within ten (10) business days after the date of the citation. Your request should be in writing, include the case number from your citation, and be directed to the Director of the Utah Division of Consumer Protection at the address listed above. As you prepare for your hearing, please keep in mind all of the following:

**Notice:** You will receive a Notice of Administrative Hearing with the time and date of the hearing. On the day of the hearing the Division receptionist, at the address listed above on the second floor, will give you the room number for the hearing. The name of the presiding officer for the hearing is on that notice. Please address the presiding officer by name (e.g. "Mr. Smith").

**Open Hearing:** The hearing is open to all parties, and is open to the public unless closed by the presiding officer. The Division will record the hearing.

**Access to Information:** Discovery is prohibited, but parties may have access to all materials and information the Division intends to present at the hearing. You may contact the investigator or licensor whose name appears on your citation to request access to this information.

**Legal Representation:** You may represent yourself or be represented by an attorney. Ordinarily the Division is not represented by an attorney at hearings.

**Issues:** The primary issues for the hearing are:

Was there a factual and legal basis to issue the citation?

If so, was it fair to issue the citation?

If so, what is the appropriate penalty?

**Burden of Proof:** If you are denying the offense, the Division is responsible to prove its case against you by a preponderance of the evidence. If you are admitting the offense, you are responsible to prove that the citation should be dismissed or that the penalty should be reduced.

**Evidence:** All parties may testify, present evidence, and comment on the issues. In presenting evidence, any party may examine witnesses and submit exhibits. At the request of either party, or at his or her own initiative, the presiding officer may examine a witness. Any party may ask to present a witness by telephone. The presiding officer will exclude any evidence he or she deems irrelevant, repetitious, or improper.

**Final Order:** Following the hearing, the presiding officer will take the matter under advisement and make a recommendation to the Division Director, who will issue a Final Order to uphold, dismiss, or modify the citation. The Final Order will include a notice of any right of administrative or judicial review.

You should not rely on this letter alone for instructions regarding informal hearings. The hearing is governed by law (Utah Administrative Procedures Act: Utah Code Title 63G, Chapter 4; Division of Consumer Protection: Utah Code Title 13, Chapter 2) and rule (Department of Commerce Administrative Procedures Act Rules: Utah Admin. Code R151-46b). You may access these laws and rules at your local library or at the following Internet sites:

<http://www.le.state.ut.us/~code/TITLE63G/63G04.htm>

[http://www.le.state.ut.us/~code/TITLE13/13\\_02.htm](http://www.le.state.ut.us/~code/TITLE13/13_02.htm)

State of Utah

DEPARTMENT OF COMMERCE

DIVISION OF CONSUMER PROTECTION

Heber M. Wells Building

160 East 300 South

P.O. Box 146704

Salt Lake City, Utah 84114-6704



PRESORTED  
FIRST CLASS



02 1M  
0004292019  
\$00.335  
FEB 18 2011  
MAILED FROM ZIP CODE 84116

RETURN SERVICE REQUESTED



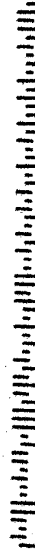
CONVERTIS LLC

c/o THE CORPORATION COMPANY

1675 BROADWAY STE 1200

DENVER, CO 80202

LAXD551 80202





State of Utah

DEPARTMENT OF COMMERCE

DIVISION OF CONSUMER PROTECTION

Heber M. Wells Building  
160 East 300 South  
P.O. Box 146704  
Salt Lake City, Utah 84114-6704



PRESORTED  
FIRST CLASS

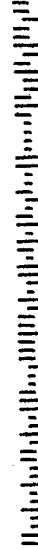


UNITED STATES POSTAGE  
PATNEY BOWES  
02 1M  
\$ 00.33<sup>6</sup>  
0004240935 FEB 25 2011  
MAILED FROM ZIP CODE 84114

RETURN SERVICE REQUESTED

CONVERTIS, LLC  
6260 LOOKOUT ROAD  
BOULDER, CO 80301

LAXDSE1 80301



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**BEFORE THE DIVISION OF CONSUMER PROTECTION  
OF THE DEPARTMENT OF COMMERCE  
OF THE STATE OF UTAH**

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In the matter:  
CONVERTIS, LLC dba ORTHOWHITE  
AND IVORYWHITE,  
Respondents.

NOTICE OF  
ADMINISTRATIVE HEARING

DCP Case No. 73780

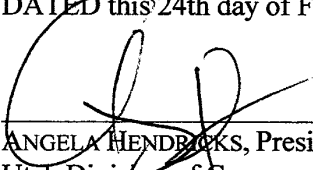
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TO ALL PARTIES:

Please take notice that this matter will come for hearing before the person designated as the presiding officer by the Director of the Division of Consumer Protection, at the Division's offices located at the Heber M. Wells Building, 160 East 300 South, 2<sup>nd</sup> Floor, Salt Lake City, Utah, on **Tuesday, April 5, 2011 at 9:00 A.M.** Hearings before the Division of Consumer Protection are designated as informal proceedings to be conducted pursuant to the Utah Administrative Procedures Act, Utah Code Title 63G, Chapter 4. For further information, please see the enclosed document:

**INFORMAL HEARINGS BEFORE THE DIVISION OF CONSUMER PROTECTION.**

DATED this 24th day of February, 2011.



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ANGELA HENDRICKS, Presiding Officer  
Utah Division of Consumer Protection  
160 East 300 South  
Salt Lake City, Utah 84114-6704  
Telephone: (801) 530-6601

CERTIFICATE OF SERVICE

I certify that I have this 24 day of February, 2011 served the foregoing NOTICE OF ADMINISTRATIVE HEARING on the parties in this proceeding by mailing a copy, properly addressed by first class mail with postage prepaid, to:

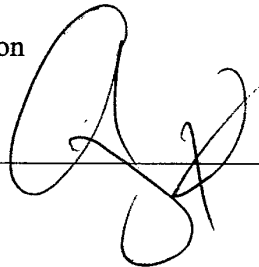
TERRANCE D. CARROLL  
GREENBERG TRAURING, LLP  
1200 17TH STREET, SUITE 2400  
DENVER, CO 80202

CONVERTIS, LLC  
6260 LOOKOUT ROAD  
BOULDER, CO 80301

CONVERTIS, LLC  
c/o THE CORPORATION COMPANY  
1675 BROADWAY, SUITE 1200  
DENVER, CO 80202

And by hand-delivery to:

David P. Furlong, Investigator  
Utah Division of Consumer Protection

  
A handwritten signature in black ink, appearing to be 'D. Furlong', is written over a horizontal line.

DIVISION OF CONSUMER PROTECTION  
DEPARTMENT OF COMMERCE  
STATE OF UTAH  
160 EAST 300 SOUTH  
P.O. BOX 146704  
SALT LAKE CITY, UTAH 84114-6704

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<http://www.le.state.ut.us/~code/TITLE63G/63G04.htm>

[http://www.le.state.ut.us/~code/TITLE13/13\\_02.htm](http://www.le.state.ut.us/~code/TITLE13/13_02.htm)

<http://www.rules.utah.gov/publicat/code/r151/r151-46b.htm>

You may contact the presiding officer with any technical or procedural questions, but the presiding officer may not discuss the merits of the case with you.

*Revision Date: March 26, 2009*